

**Remarks**

Applicant has amended Claim 1, cancelled Claims 11 – 20, and added new Claims 21 – 28. Applicant respectfully submits that no new matter was added by the amendment, as all of the amended matter was either previously illustrated or described in the drawings, written specification and/or claims of the present application. Entry of the amendment and favorable consideration thereof is earnestly requested.

The Examiner has rejected claims 1 – 23 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,370,515 to Diamond et al. (“the ’515 patent”). These rejections are respectfully traversed.

The ’515 patent is directed toward a bulk terminal automation system for automating and coordinating delivery operation of bulk shipping terminal where data is collected relating to driver access inputs, loads collected, bills of lading, storage levels and metered units of bulk material which are dispensed. (Abstract). Alternatively, the present invention is directed toward a tank monitoring system and automated inventory management system for, for example, fuel dealers. The present system allows the fuel dealer to view the amount of fuel that is remaining at their customers tanks remotely. Currently dealers estimate the amount of fuel remaining by using a “degree-day” estimation. This estimation uses the history of the temperature over a given period of time. These predictions are not very accurate and as a result, fuel dealers deliver product to their customers more often than they would otherwise have to with real data. Making

delivery decisions based on real data allows the dealer to increase delivery efficiency and reduce their delivery fleet because fuel is only provided to customers with tank levels below a threshold level as opposed to crude estimated fuel consumption data.

**35 U.S.C. §102(b) Rejections**

As amended, Claim 1 requires among other elements, delivery analysis software module for analyzing the replenishment of fuel to the customer storage location, and scheduling software module for optimizing fuel deliveries to customers. Additionally, Claim 21 requires among other elements, fuel level data being presented to the dealer for display in real-time such that the dealer may optimize schedule delivery of fuel to the customer.

The '515 patent discloses that the system provides "data reports" that "may combine data from several terminals to provide regional data relating to consumer use and customer load shipment distribution." (Col. 2, lines 1 – 4). This system is provided to inform customers of bulk shipping terminals with information relating to delivery operations from the bulk shipping terminals, including for example, "driver access inputs, loads collected, bills of lading, storage levels [of the bulk product at the terminal] and metered units of bulk material which are dispensed." (Col. 1, lines 52 – 55). Nowhere however, does the '515 patent teach, disclose or suggest delivery analysis software module for analyzing the replenishment of fuel to the customer storage location, and scheduling software module for optimizing fuel deliveries to customers as required by

Claim 1, or fuel level data being presented to the dealer for display in real-time such that the dealer may optimize schedule delivery of fuel to the customer as required by Claim 21. Rather, the data collected by the '515 patent is directed to the bulk shipping terminal, not to a customer location such as a home fuel tank level.

There is no mention of analyzing software for analyzing the replenishment of fuel to the customer storage location because the '515 patent is directed at monitoring the bulk shipping terminal itself, not customer locations. In addition, scheduling software for optimizing fuel deliveries to customers because again, the '515 patent is not directed toward monitoring customer locations and optimizing deliver of fuel to customer locations.

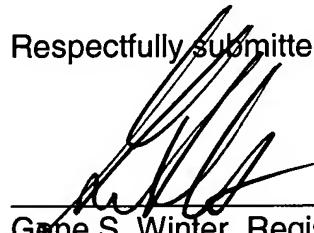
Applicant further respectfully submits that there is no motivation to modify the '515 patent according to the present invention because there is no suggestion to optimize or increase delivery efficiency of fuel to a customer location. Rather, the '515 patent is directed toward the bulk product terminal where the dealer would pick up their product to be delivered to a customer, not toward monitoring of the customer that consumes the bulk product.

Additionally, Applicant further respectfully submits that the '515 patent fails to teach real-time data collection as required by Claim 21. For example, the '515 patent teaches that the "locally collected data is periodically transmitted to the central office and stored in a central office database" and that a "process of operating the CPU 70 for

collecting inventory information within the bulk shipping terminal 44" is performed "at a predetermined time of day at which trucks are not allowed to load so that inventory values will be stable." (Col. 1, lines 55 – 56; Col. 6, lines 2 – 6). Therefore, the information is not presented to a dealer in real-time.

It is respectfully submitted that claims 1 – 10 and 21 – 28, all of the claims remaining in the application, are in order for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

  
\_\_\_\_\_  
Gene S. Winter, Registration No. 28,352  
Steven B. Simonis, Registration No. 54,449  
Attorneys for Applicants  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905-5619  
203 324-6155

Page 7  
Serial No. 10/072,503  
Response to Official Action

**In the Drawings**

There are no amendments to the drawings.